

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

| | | |
|---------------------------------------|---|----------------|
| IN THE MATTER OF A PETITION FOR AN | : | |
| ADMINISTRATIVE INJUNCTION INVOLVING : | : | FINAL DECISION |
| | : | AND ORDER |
| GREEN’S PHARMACY, | : | LS0811184UNL |
| RESPONDENT. | : | |

Division of Enforcement Case # 08 UNL 062

The parties of this action for the purposes of Section 227.53, Wis. Stats, are:

Green’s Pharmacy
151 N. County Rd.
Palm Beach, FL 33480

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter subject to the approval of the Secretary. The Secretary has reviewed the Stipulation and considers it acceptable.

Accordingly, the Secretary adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Green’s Pharmacy is a pharmacy licensed in the State of Florida, with an address of 151 N. County Road, Palm Beach, Florida, 33480. Green’s Pharmacy holds no Wisconsin license, and has not in the past held a Wisconsin license.
2. Wis. Stat. § 450.065(1) provides that no pharmacy that is in another state may ship, mail or otherwise deliver a prescribed drug or device to persons in Wisconsin unless the pharmacy is licensed under Wis. Stat. § 450.065(2).
3. In or about November and December of 2007, and February and March of 2008, Green’s Pharmacy delivered a variety of prescription drugs including but not limited to Subutex, to a resident of Superior, Wisconsin on 9 occasions.

CONCLUSIONS OF LAW

1. Wis. Stat. § 450.065(1) provides that no pharmacy that is in another state may ship, mail or otherwise deliver a prescribed drug or device to persons in Wisconsin unless the pharmacy is licensed under Wis. Stat. § 450.065(2).
2. Respondent, on multiple occasions, delivered prescription drugs to a person in Wisconsin without a license.
3. The department has authority to issue this Administrative Injunction as a special order under Wis. Stat. § 440.01 and Wis. Admin. Code Ch. RL 3.

ORDER

IT IS ORDERED, that the attached stipulation is accepted.

IT IS FURTHER ORDERED, that Green's Pharmacy is enjoined and prohibited from the delivery of any prescription drug or device, personally or through employees, agents, business entities, and contractors, to any person in Wisconsin, and from doing any act which may constitute the delivery of any prescription drug or device to any person in Wisconsin, unless and until properly credentialed to do so. Violation of this special order may result in a forfeiture of up to \$10,000 for each day of violation per V.S. Stat. § 440.21(4)(a).

IT IS FURTHER ORDERED, that if the Secretary determines that there is probable cause to believe that Respondent violated any terms of this final decision and order, the Secretary may order that the violations covered by this decision and order be referred to any appropriate prosecutorial unit for review for possible criminal charges.

Issued at Madison, Wisconsin this 18 day of November, 2008.

Celia Jackson
Secretary
Department of Regulation and Licensing

IN THE MATTER OF A PETITION FOR AN :
ADMINISTRATIVE INJUNCTION INVOLVING :
 : STIPULATION
GREEN’S PHARMACY, : LS# _____
RESPONDENT. :

Division of Enforcement Case # 08 UNL 062

Respondent Green’s Pharmacy, by its owner; and Jeanette Lytle, attorney for the Division of Enforcement of Department of Regulation and Licensing, stipulate:

1. This Stipulation is entered into as a result of an investigation by the State of Wisconsin Department of Regulation and Licensing (“the Department”). By signing below as owner, the signatory represents that he or she has the authority to enter into this agreement on behalf of Respondent. Respondent, by its owner, consents to the resolution of this investigation agreement and without public hearing on, or the filing of, a petition for an administrative injunction.
2. Respondent’s owner understands that by signing this Stipulation, he or she waives on behalf of Respondent the following rights with respect to formal proceedings: the right to a statement of the allegations against Respondent; the right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses; the right to call witnesses on Respondent’s behalf and to compel attendance of witnesses by subpoena; the right to testify personally; the right to file objections to any proposed decision and to present briefs and oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. Respondent’s owner has been provided an opportunity to obtain the advice of legal counsel prior to signing this stipulation.
4. Respondent’s owner admits, on behalf of Respondent, the allegations in the findings of fact and conclusions of law and agrees to the adoption of the administrative injunction by the Secretary of the Department of Regulation and Licensing, and its entry without further notice, pleadings, appearance or consent of the parties. Personal service of the Administrative Injunction is waived, and Respondents will accept service by mail.
5. Respondent’s owner waives, on behalf of Respondent, all rights to any appeal of the Secretary’s order, if adopted in the form as attached.
6. The parties agree that an attorney for the Division of Enforcement may appear before the Secretary without the presence of Respondent, its owner or its attorney for the purposes of speaking in support of this agreement and answering questions that the Secretary and her staff may have in connection with their deliberations on this case.
7. The Division of Enforcement joins Respondent’s owner in recommending that the Secretary adopt this Stipulation and issue the attached Administrative Injunction.
8. If the terms of this Stipulation are not acceptable to the Secretary, the parties shall not be bound by the content of this Stipulation or the proposed Administrative Injunction, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Secretary, the parties agree not to contend that the Secretary has been prejudiced or biased in any manner by the consideration of this attempted resolution.
9. Respondent’s owner is informed that should the Secretary adopt this stipulation, the administrative injunction will be a public record and may be subject to publication, according to standard Department procedures.

Green’s Pharmacy

By: _____, owner
_____ (print name)

151 N. County Rd.
Palm Beach, FL 33480

Date

Jeanette Lytle
Attorney
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date